

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PRINCE PILGRIM,

Plaintiff,

-v.-

9:05-CV-0198
(GLS)(GHL)

P. BRUCE, Correction Officer, Great
Meadow Correctional Facility, *et al.*,

Defendants.

APPEARANCES:

PRINCE PILGRIM
Plaintiff, *pro se*
92-A-8847

HON. ANDREW M. CUOMO
Office of the Attorney General
State of New York
Department of Law
The Capitol
Albany, New York 12224

DAVID FRUCHTER, ESQ.

GEORGE H. LOWE, U.S. MAGISTRATE JUDGE

ORDER

Presently before the Court is a Motion to Compel Discovery filed by Prince Pilgrim ("Plaintiff" or "Pilgrim"). Dkt. No. 28. Defendants filed their Response to the Motion on March 2, 2007. Dkt. No. 31.

In his Motion, Plaintiff seeks an order from this Court compelling Defendants to respond to Plaintiff's Request for Production of Documents dated June 22, 2006. Dkt. No. 28. Plaintiff has also attached a letter to Defendants' counsel dated October 24, 2006 that sought responses to the Demands for Documents that, as of the date of the letter, had gone wholly unanswered. *Id.*, Exhibit A.

The Court notes that during the period of time between service of the discovery demands and the filing of this Motion on January 18, 2007, Defendants' counsel never sought permission from the Plaintiff, or this Court, for additional time in which to respond to the June 22, 2006 demands. On February 12, 2007 Defendants' counsel sought an extension of time in which to respond to this Motion. Counsel stated that the extension was necessary because he had "not been able to complete a response to the plaintiff's motion." Dkt. No. 29.

On March 2, 2007 Defendants' counsel filed a Response to the Motion. Dkt. No. 31. In counsel's declaration in support of the Response, counsel states "[e]arlier today, my office served upon plaintiff by mail a response to that First Request for Production of Documents."¹ *Id.* Defendants attached the Responses to the Document Demands, but did not provide the Court the documents that were actually produced. *Id.*, Exhibit A.

The Court has reviewed Defendants' Responses and finds that, on a number of occasions, Defendants apparently did not produce responsive documents but, rather, referred Plaintiff back to the correctional facility to obtain copies of same on his own. *See* Responses to Demands 3, 5, 6, 8, 9, 10, 11, 12, 13, and 17. In addition, in response to Demand 7, Defendants objected to the Demand based upon that ground that "copies of the requested documents are likely already in the possession, custody and control of plaintiff." Dkt. No. 31, Exhibit A. Because the documents actually produced to the Plaintiff were not provided with the Response to this Motion, the Court has no way of ascertaining whether the responsive documents were provided.

Such responses are improper and unacceptable to the Court. Accordingly, the Court hereby directs Defendants to produce to Plaintiff the documents that are responsive to Demands

¹The Court notes that discovery closed in this action on January 17, 2007. Dkt. No. 26.

3, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 17. Such documents shall be produced to Plaintiff without cost to Plaintiff, and shall be provided no later than **thirty (30) days** from the filing date of this Order. Defendants shall file with this Court, within thirty day from the filing date of this Order, proof of service of the responsive documents on Plaintiff.

In addition, Counsel is reminded of his obligation to timely respond to proceedings in this Court, including the exchange of discovery. **In any future action pending before this Court, counsel shall either secure the written consent of the Plaintiff to extend discovery response deadlines, or, request an extension of time to respond to discovery from this Court.**

WHEREFORE, it is hereby

ORDERED, that Plaintiff's Motion to Compel (Dkt. No. 28) is granted to the extent that Defendants shall produce to Plaintiffs the documents that are responsive to Demands 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 17. Such document shall be produced to Plaintiff without cost to Plaintiff, and shall be provided no later than **thirty (30) days** from the filing date of this Order, and it is further


ORDERED, that the Defendants shall file with this Court, within **thirty (30) days** from the filing date of this Order, proof of service of the responsive documents on Plaintiff, and it is further

ORDERED, that in any future action pending before this Court, counsel shall either secure the written consent of the Plaintiff to extend discovery response deadlines, or, request an extension of time to respond to discovery from this Court, and it is further

ORDERED, that the Clerk serve a copy of this Order on the parties in accordance with

the Local Rules.

Dated: March 14, 2007
Syracuse, New York


George H. Lowe
United States Magistrate Judge